

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYMBOLGY INNOVATIONS, LLC,

Plaintiff,

v.

**VALVE CORPORATION,
GEARBOX SOFTWARE, L.L.C.,**

Defendants.

CASE NO. 2:23-cv-419-JRG

JURY TRIAL DEMANDED

**ORDERING DENYING MOTION TO DISMISS UNDER
RULE 12(B)(3) THE THIRD AMENDED COMPLAINT [DKT. 56]**

Based on the moving papers and the filings in this case, the Court hereby DENIES Valve Corporation's motion to dismiss under Rule 12(b)(3). The Court finds that personal jurisdiction and venue both are proper over Valve Corporation in this District.

Venue is proper under § 1400(b) for Defendant Valve Corporation. It maintains a regular and established business presence in this District as established through Valve Corporation's ratification at least two Valve licensed PC Cafés in the EDTX. Dkt. 52 at ¶ 56. These STEAM PC gaming Cafés that are both located in this District advertise Valve's STEAM gaming platform and that Valve can inspect these locations at any time are sufficient to establish them as being ratified by Valve Corporation for purposes of establishing venue.

Additionally, Valve Corp. has agency over employees that reside in this district that perform inspections of its dedicated servers that Valve Corporation promotes its cafes by providing servers nearby to provide its user the fastest ping times available at its ratified Steam PC Gaming PC Café's. Dkt 52 at ¶ 59.

Even if venue is not proper under § 1400(b), in the alternative, the Court finds Valve Corporation waived venue in its prior Global Settlement And License Agreement with the parties.

A forum selection clause can operate as a waiver of § 1400(b) because it shows that the parties consented to litigate in a particular forum. *See 5 Annot. Patent Digest (Matthews)*, § 36:152.40 (2020)); *Sundesha, LLC v. IQ Formulations, LLC*, Case No. 2:19-cv-06467-AB-MAA, 2020 WL 8125541, at *2 (C.D. Cal. Aug. 19, 2020) (Court held that “a forum selection clause can operate as a waiver of § 1400(b).”).

So either Valve Corporation ratified the employees and the locations of the PC Café’s it promotes and controls and provides support to such that venue is proper under Section 1400(b)., or, the forum selection clause in the GSALA operates as a waiver of § 1400(b).